



**CITY OF BEAVERTON
STAFF REPORT**

TO: Planning Commission

STAFF REPORT DATE: November 9, 2016

HEARING DATE: November 16, 2016

STAFF: Sandra Freund, AICP, Current Planning Manager
Jason T., Assistant Planner

SUBJECT: **TA2016-0007 (Wireless Communication Facility Text Amendment)**

REQUEST: The City proposes to amend the Beaverton Development Code to clarify language in Chapter 20 (Land Uses), Chapter 40 (Applications), Chapter 50 (Procedures), and Chapter 60 (Special Requirements) related to Wireless Communication Facilities, and to ensure standards, process and language are up to date and consistent with other code provisions. Modifications to Chapters 20, 40, 50, 60 and potential minor modifications to other chapters.

APPLICANT: City of Beaverton - Planning Division

APPLICABLE CRITERIA: Development Code Section 40.85.15.1.C (Text Amendment Approval Criteria)

RECOMMENDATION: Staff recommend the Planning Commission review the proposal, take public testimony, deliberate on the proposal and make a recommendation to City Council.

1. Summary of Proposed Text Amendment

Technology is driving many dramatic changes to modern life, including the communication technology that is needed to support our increased use of the internet and wireless devices. Communications service providers and related companies have begun deploying large numbers of small signal boosters, often called "small cell," in cities across the country. In other jurisdictions, multiple WCF applications to install this type of equipment have been submitted simultaneously, which has created a challenge for staff to adequately review such applications within federally-mandated timeframes. Additionally, the regulations in the Beaverton Development Code were not created with this particular technology in mind and do not address the potential aesthetic impacts to our streets and neighborhoods.

The City of Beaverton is developing a plan to study this issue thoroughly during the coming year, by analyzing existing levels of service, seeking out information about current and potential future technologies, and engaging industry experts and local stakeholders in a discussion aimed at ensuring high levels of service for city residents and businesses, while also safeguarding community character.

This proposed Development Code Text Amendment is an interim step that establishes more stringent aesthetic requirements for wireless facility installations on private property and in the public right-of-way. It is anticipated that the Development Code will be further amended in the future to reflect the outcome of the comprehensive study described above.

The proposed Text Amendment to modify the Beaverton Development Code regulating Wireless Communication Facilities (WCF), is intended to ensure that the process and code language are up-to-date and consistent with other existing code language. The proposed text amendments to the Chapters 20, 40, 50, and 60 will establish new limitations on the size, location, and operation of wireless communication devices mounted on existing poles and towers, as well as limitations on new poles and towers located within streets (the public right-of-way) or on private property. The amendments are summarized below and within exhibits herein.

Chapter 20 – Land Uses

The proposed changes to Chapter 20 include reduced height standards to WCF on private property and within the ROW and stealth design standards applied to new and collocation of WCF in the ROW. Various sections within the chapter have been renumbered as a result of adding new text.

Section 20.05.15.I establishes new maximum heights, including the antenna, of 30 feet for all WCF located within the right-of-way. Existing Section 20.05.20.14 was moved to 20.05.20.17 and includes new language addressing WCF within the right-of-way; *New or Collocation* of WCF in the right-of-way, and stealth design of those facilities. Section 20.05.20.15, 16, and 17 all moved up numerically.

Section 20.05.25 includes revisions to Use Restriction 10, by referencing inclusion of all utility poles within the right-of-way. Section 20.10.15.G addresses maximum heights of WCF, with reductions from 100 feet to 80 feet, and the addition of maximum heights for all WCF located within the right-of-way to 30 feet.

Section 20.10.20 renumbers 29, 30, and 31, and, in new 32, creates a new category of newly created or collocated WCF in the right-of-way. For these WCF, stealth design is required. In Section 20.10.25, new Use Restriction 12 applies to all utility poles within the right-of-way.

Section 20.15.15.H establishes maximum heights for WCF, with reductions from 120 feet to 80 feet, and adds a new maximum height of 30 feet for WCF located within the right-of-way. Section 20.15.20 renumbers 30, 31, and 32, and adds a new 33 for new and collocated WCF in the right-of-way, requiring stealth design. Section 20.15.25, Use Restriction 23, addresses the location of WCF on streetlights and utility poles within the right-of-way.

Section 20.20.15.G reduces the maximum height, inclusive of antenna, for WCF not in the right-of-way from 100 feet to 80 feet, and adds a new maximum height of 30 feet, including antenna, for all WCF located in the right-of-way. Section 20.20.20 renumbers 34, 35 and 36, with a new 37 addressing specific configurations of new or collocated WCF in the Right-of-Way and requiring stealth design for all. Section 20.20.25 Use Restriction 65 addresses the location of WCF on streetlights and utility poles within the right-of-way.

Chapter 40 - Applications

- Section 40.96.15.1.C. Approval Criteria, includes new Criterion 8 regarding WCF proposals placed either inside or outside of the public right-of-way.
- Section 40.96.15.2.A. includes revisions to Threshold 6 referencing inclusion of all utility poles within the right-of-way. Section 40.96.15.2.D., Submission Requirements, includes a new reference to Section 60.70.50 *Required Studies and Information*.
- Section 40.96.15.3.A.1 revises Threshold 1 by adding the phrase “or pole” and adds a new Threshold 5, which addresses installation of WCF on streetlights or utility poles within designated Collector Streets, Neighborhood Route Streets or Local Streets.

Chapter 50 - Procedures

Sections 50.20.1 and 50.20.2 include additional language clarifying the requirements and purpose for a pre-application conference.

Chapter 60

In Chapter 60 – Special Requirements, amendments are made to various sections dealing with WCF standards related to location (i.e. within the public right-of-way), design, noise attenuation, lighting, and the placement of equipment cabinets and all other appurtenances related to WCF. Particular attention is paid to design requirements and overall aesthetics of WCF in order to reduce the impacts of such facilities. Additional language has been added to address the requirements of meeting the city’s franchise/utility licensing agreement(s) and approvals required from the Public Works Director for WCF placed within rights-of-way.

Public Comment

Public notice was provided consistent with Section 50.50 of the Development Code. As of the date of issuance of the staff report and recommendation there were no written comments from the public submitted into the record. Staff have also not received any written comments from Metro, Washington County, or the Oregon Department of Land Conservation and Development (DLCD) staff.

Facts and Findings

Section 40.85.15.1.C of the Development Code specifies that in order to approve a Text Amendment application, the decision-making authority shall make findings of fact, based on evidence provided by the applicant (i.e., the city), that all of the criteria specified in Section 40.85.15.1.C.1-7 are satisfied. The following are the findings of fact for TA2016-0007 (Wireless Communication Facility Text Amendment):

**Development Code Approval Criteria
Wireless Communication Facility Text Amendment
TA2016-0007**

1. *The proposal satisfies the threshold requirements for a Text Amendment application.*

Section 40.85.15.1.A specifies that an application for a text amendment shall be required when there is any proposed change to the Development Code, excluding changes to the zoning map. TA2016-0007 proposes to make changes to Chapters 20, 40, 50 and 60 of the Development Code, as shown in the attached Exhibits. Therefore, staff find that the approval criterion has been met.

2. *All City application fees related to the application under consideration by the decision-making authority have been submitted.*

Policy Number 470.001 of the City's Administrative Policies and Procedures manual states that fees for a City initiated application are not required where the application fee would be paid from the City's General Fund. The Planning Division, which is a General Fund program, initiated the application. Therefore, the payment of an application fee is not required. Staff find that the approval criterion is not applicable.

3. *The proposed text amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan.*

Metro's Urban Growth Management Functional Plan (UGMFP) is the document that defines how local governments are to implement the Metro Regional Goals and Objectives. The UGMFP is comprised of the following titles:

- Title 1: Requirements for Housing and Employment Accommodations
- Title 2: Regional Parking Policy (Repealed and moved to Title 4 of the Regional Transportation Functional Plan (RTFP))
- Title 3: Water Quality and Flood Management
- Title 4: Industrial and Other Employment Areas
- Title 5: Neighbor Cities and Rural Reserves
- Title 6: Centers, Corridors, Station Communities and Main Streets
- Title 7: Housing Choice
- Title 8: Compliance Procedures
- Title 9: Performance Measures (Repealed)
- Title 10: Functional Plan Definitions
- Title 11: Planning for New Urban Areas
- Title 12: Protection of Residential Neighborhoods
- Title 13: Nature in Neighborhoods
- Title 14: Urban Growth Boundary

The City is required to bring its land use regulations into conformance with the UGMFP. This proposed text amendment does not conflict with the UGMFP.

The proposed Text Amendment modify existing language as related to Wireless Communication Facilities, and also proposes new language to ensure process and language are up to date and consistent with other code provisions. Modifications to Chapters 20, 40, 50, 60, and potential minor modifications to other chapters will be made as necessary

The proposed amendment is in conformance with the provisions of the Urban Growth Management Functional Plan (UGMFP). Therefore, staff find that the approval criterion has been met.

4. *The proposed text amendment is consistent with the City's Comprehensive Plan.*

Staff notes that the Comprehensive Plan does not have any policies that directly correspond to, nor cite wireless communication facilities, but Staff finds that the following policy does apply to this proposal:

9.2.2.2.b Ensure regulations and codes are consistent with and complementary to one another, and are easy to understand and implement.

The Wireless Communication Facilities Text Amendment fits within the existing policy framework of the Development Code and is consistent with other provisions within the Code. Code provisions are consistent with and complementary to one another.

Comprehensive Plan Compliance Summary: Therefore, staff find that the proposed amendment complies with all applicable Comprehensive Plan policies and is consistent with the City's Comprehensive Plan and the approval criterion has been met.

Finding:

Staff finds that the proposed Wireless Communication Facilities Text Amendment corresponds to the policy cited above, as it is intended to clarify the City's current WCF standards as it relates to new technology and its implementation in public rights-of-way. It further intends to provide more consistency and uniformity with other provisions of existing Wireless Facility standards throughout the Development Code.

Therefore, staff find that the approval criterion has been met.

5. *The proposed text amendment is consistent with other provisions within the City's Development Code.*

The text amendment is intended to work within the existing framework of the Development Code, modifying language applicable to wireless communication facilities development throughout the city. The proposed amendments do not create conflicts with other provisions of the Development Code.

Therefore, staff find that the approval criterion has been met.

6. *The proposed amendment is consistent with all applicable City ordinance requirements and regulations.*

Staff has not identified any other applicable City ordinance requirements and regulations that would be affected by the proposed text amendment.

Therefore, staff find that the approval criterion has been met.

7. *Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.*

Staff have determined that there are no other applications and documents related to the request that will require further City approval.

Therefore, staff find that approval criterion 7 has been met.

Additional Applicable Approval Criteria

As a post-acknowledgement amendment to the City's Development Code, the proposed text amendment is subject to ORS 197.175(1), which requires that the City demonstrate that the proposed text amendment is consistent with the relevant Statewide Planning Goals. Staff have determined that the following goals apply:

Goal 1	Goal 2	Goal 11	Goal 13
Goal 14			

Goal 1 Citizen Involvement To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Staff find that the City has provided adequate notice and opportunity for public involvement for the proposed text amendment and public hearing.

Goal 2 Land Use Planning To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.

Staff find that the proposed text amendment fits within the established process and framework. Furthermore, the findings contained within this report establish an adequate factual basis for the proposal.

Goal 11 Public Facilities and Services To plan and develop a timely, orderly, and efficient arrangement of public facilities and service to serve as a framework for urban and rural development.

Staff find that the proposal will not impair the City's ability to provide the necessary services.

Goal 13 Energy Conservation To conserve energy.

Staff find that the proposed changes will not change the City's ability to conserve energy or promote energy-efficiency measures.

Goal 14 Urbanization To provide for an orderly and efficient transition from rural to urban land use.

Staff find that the proposal only applies to already urbanized land and therefore does not alter the transition from rural to urban land use.

State Land Use Goal Compliance Summary:

Therefore, staff find that the proposed text amendment complies with all of the applicable State Planning Goals.

Staff Recommendation

Based on the facts and findings presented, staff find that the proposed amendment to the Development Code is consistent with all the text amendment approval criteria of Section 40.85.15.1.C.1-7 of the Development Code.

Staff offers the following recommendation for the conduct of the November 16, 2016 public hearing for TA2016-0007 (Wireless Communication Facility Text Amendment):

- A. Conduct the public hearing and receive all public testimony relating to the proposal.
- B. Consider the public testimony and the facts and findings presented in the staff report, deliberate on policy issues and other issues identified by the Commission or the public.
- C. Recommend **APPROVAL** of text amendment application TA2016-0007 (Wireless Communication Facility Text Amendment) to the City Council.

Exhibits

- Exhibit 1.1 Text of Proposed Changes
- Exhibit 1.2 Chapter 20 Clean Copy of Proposed Revisions
 - Exhibit 1.2.1 Chapter 20 Existing Text with Proposed Revisions
- Exhibit 1.3 Chapter 40 Clean Copy of Proposed Revisions
 - Exhibit 1.3.1 Chapter 40 Existing Text with Proposed Revisions
- Exhibit 1.4 Chapter 50 Clean Copy of Proposed Revisions
- Exhibit 1.5 Chapter 60 Clean Copy of Proposed Revisions
 - Exhibit 1.5.1 Chapter 60 Existing Text with Proposed Revisions